



## Public Health

100 Years of Service ★ 1913-2013

November 17, 2015

Elizabeth Esbri  
Engineering Development Review  
101 City Hall Plaza, Durham, NC 27701

Re: 2639 E. Geer St. Septic System

Dear Elizabeth:

Environmental Health has determined that the septic system at 2639 E. Geer St. is failing. During the site visit a straight pipe was observed discharging sewage into a drainage ditch and the existing tank violates State laws and rules governing sewage treatment and disposal systems. The site has been classified Unsuitable for repair, therefore no permits may be issued by Durham County Environmental Health.

Attached is the site assessment and permit denial letter.

Please contact me if you have any questions.

Regards,

Dave Milkereit  
REHSI  
Environmental Health Division  
Durham County Public Health

Enclosures: Copy of site evaluation  
Copy of Rule .1948



Environmental Health Division  
Human Services Building | 414 East Main Street, Durham, North Carolina 27701  
(919) 560-7800 | Fax (919) 560-7830 | [dconc.gov/publichealth](http://dconc.gov/publichealth)  
Equal Employment/Affirmative Action Employer



## Public Health

### ENVIRONMENTAL HEALTH DIVISION

414 E. Main Street, Durham, NC 27701

Ph 919-560-7800 Fax 919-560-7830

healthinspector@dconc.gov

### NOTICE OF VIOLATION ON-SITE WASTEWATER SYSTEM

October 21, 2015

Applicant: Arnulfo Ayala  
2639 E. Geer St  
Durham NC, 27704

Address: 2639 E. Geer St  
Durham, NC 27704

Dear: Mr. Ayala

You are hereby notified that you are violating the Rules adopted by the North Carolina Commission for Health Services of the General Statutes of North Carolina; or Permit Conditions by owning or controlling a residence, place of business, or place of public assembly which is not provided with an approved wastewater system. Your wastewater system is not in compliance.

An inspection of the wastewater system at above referenced property by the Durham County Department of Public Health indicated the following violations:

<u>Violation</u>	<u>Law or Rule</u>
1. Straight pipe discharge is not approved.	§ 130A-335(a)
2. Repair work performed without permit or inspection.	§ 130A-336, 337
3. Septic tank does not meet setback to building foundation.	15A NCAC 18A, .1950(a)(10)
4. Tank subject to vehicular traffic, tank is not traffic rated.	15A NCAC 18A, .1954(a)(11)



## Public Health

100 Years of Service • 1913-2013

October 22, 2015

Re: Application for improvement permit for: Arnulfo Ayala  
Property site: 2639 E. Geer  
Durham, NC 27704  
Environmental Health Division file number: 114043

Dear Arnulfo Ayala

On October 21, 2015, the Durham County Department of Public Health, Environmental Health Division on evaluated the above referenced property at the site designated on the plat/site plan that accompanied your improvement permit (for repair) application. According to your application the site is to serve a 2 bedroom residence with a design wastewater flow of 240 gallons per day. The evaluation was done in accordance with the laws and rules governing wastewater systems in North Carolina General Statute 130A-333 including related statutes and Title 15A, Subchapter 18A, of the North Carolina Administrative Code, Rule .1900 and related rules.

Based on the criteria set out in Title 15A, Subchapter 18A, of the North Carolina Administrative Code, Rule .1940 through .1948, the evaluation indicated that the site is UNSUITABLE for a sanitary system of sewage treatment and disposal. Therefore, we must deny your request for an improvement permit. A copy of the site evaluation is enclosed. The site is unsuitable based on the following:

- ☒ Unsuitable soil topography and/or landscape position (Rule .1940)
- ☒ Unsuitable soil characteristics (structure or clay mineralogy) (Rule .1941)
- ☒ Unsuitable soil wetness condition (Rule .1942)
- ☐ Unsuitable soil depth (Rule .1943)
- ☐ Presence of restrictive horizon (Rule .1944)
- ☐ Insufficient space for septic system and repair area (Rule .1945)
- ☐ Unsuitable for meeting required setbacks (Rule .1950)
- Other (Rule .1946) \_\_\_\_\_

These severe soil or site limitations could cause premature system failure, leading to the discharge of untreated sewage on the ground surface, into surface waters, directly to ground water or inside your structure.

The site evaluation included consideration of possible site modifications, as well as use of modified, innovative, or alternative systems. However, the Health Department has determined that none of the above options will overcome the severe conditions on this site. A possible option might be a system designed to dispose of sewage to another area of suitable soil or off-site to additional property.

For the reasons set out above, the property is currently classified UNSUITABLE, and no improvement permit shall be issued for this site in accordance with Rule .1948(c).



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Note that a site classified as UNSUITABLE may be classified as PROVISIONALLY SUITABLE if written documentation is provided that meets the requirements of Rule .1948(d). A copy of this rule is enclosed. You may hire a consultant to assist you if you wish to try to develop a plan under which your site could be reclassified as PROVISIONALLY SUITABLE.

*You have a right to an informal review of this decision.* You may request an informal review by the soil scientist or environmental health supervisor at the local health department. You may also request an informal review by the North Carolina Department of Health and Human Services regional soil scientist. A request for informal review must be made in writing to the local health department.

*You also have a right to a formal appeal of this decision.* To pursue a formal appeal, you must file a petition for a contested case hearing with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714. To get a copy of a petition form, you may write the Office of Administrative Hearings or call the office at (919) 431-3000 or download it from the OAH web site at <http://www.ncoah.com/forms.html>. The petition for a contested case hearing must be filed in accordance with the provision of North Carolina General Statutes 130A-24 and 150B-23 and all other applicable provisions of Chapter 150B. N.C. General Statute 130A-335 (g) provides that your hearing would be held in the county where your property is located.

Please note: If you wish to pursue a formal appeal, you must file the petition form with the Office of Administrative Hearings **WITHIN 30 DAYS OF THE DATE OF THIS LETTER**. The date of this letter is October 22, 2015. Meeting the 30 day deadline is critical to your formal appeal.

If you file a petition for a contested case hearing with the Office of Administrative Hearings, you are required by law (N.C. General Statute 150B-23) to serve a copy of your petition on the Office of General Counsel, N.C. Department of Health and Human Services, 2001 Mail Service Center, Raleigh, N.C. 27699-2001.

*Do not serve the petition on your local health department.* Sending a copy of your petition to the local health department will not satisfy the legal requirement in N.C. General Statute 150B-23 that you send a copy to the Office of General Counsel, N. C. Department of Health and Human Services.

You may call or write the local health department if you need any additional information or assistance.

Sincerely,



Matthew Yearout, REHS  
Monitoring Program Specialist  
On-Site Water Protection  
Environmental Health Division

Enclosures: Copy of site evaluation  
Copy of Rule .1948

#### **15A NCAC 18A .1948 SITE CLASSIFICATION**

(a) Sites classified as SUITABLE may be utilized for a ground absorption sewage treatment and disposal system consistent with these Rules. A suitable classification generally indicates soil and site conditions favorable for the operation of a ground absorption sewage treatment and disposal system or have slight limitations that are readily overcome by proper design and installation.

(b) Sites classified as PROVISIONALLY SUITABLE may be utilized for a ground absorption sewage treatment and disposal system consistent with these Rules but have moderate limitations. Sites classified Provisionally Suitable require some modifications and careful planning, design, and installation in order for a ground absorption sewage treatment and disposal system to function satisfactorily.

(c) Sites classified UNSUITABLE have severe limitations for the installation and use of a properly functioning ground absorption sewage treatment and disposal system. An improvement permit shall not be issued for a site which is classified as UNSUITABLE. However, where a site is UNSUITABLE, it may be reclassified PROVISIONALLY SUITABLE if a special investigation indicates that a modified or alternative system can be installed in accordance with Rules .1956 or .1957 of this Section.

(d) A site classified as UNSUITABLE may be used for a ground absorption sewage treatment and disposal system specifically identified in Rules .1955, .1956, or .1957 of this Section or a system approved under Rule .1969 if written documentation, including engineering, hydrogeologic, geologic or soil studies, indicates to the local health department that the proposed system can be expected to function satisfactorily. Such sites shall be reclassified as PROVISIONALLY SUITABLE if the local health department determines that the substantiating data indicate that:

- (1) a ground absorption system can be installed so that the effluent will be non-pathogenic, non-infectious, non-toxic, and non-hazardous;
- (2) the effluent will not contaminate groundwater or surface water; and
- (3) the effluent will not be exposed on the ground surface or be discharged to surface waters where it could come in contact with people, animals, or vectors.

The State shall review the substantiating data if requested by the local health department.

*History Note: Authority G.S. 130A-335(e);*

*Eff. July 1, 1982;*

*Amended Eff. April 1, 1993; January 1, 1990.*